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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,476	10/19/2001	Thomas Wenzler	8053-P	9773
21494	7590	06/18/2004	EXAMINER	
FURGANG & ADWAR 2 CROSFIELD AVENUE WEST NYACK, NY 10994			GRAHAM, MARK S	
			ART UNIT	PAPER NUMBER
			3711	9

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,476

Applicant(s)

WENZLER, THOMAS *cn*

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn for the reasons set forth in the previous action. In response to applicant's arguments the examiner respectfully disagrees. By providing connections at the proper points on Kohn's device it can of course be broken down to a more manageable size for portability. Even the hoops themselves may be broken down into smaller units with the proper connections.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn in view of Vand for the reason set forth in the previous action and above.

Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yalvic for the reasons set forth in the previous action. In response to applicant's arguments "strap" 5 is attached to large target 3 and target 4. The third target may be the area above string 6. The claim does not preclude overlapping targets. In fact applicant's disclosed device comprises overlapping targets. Labeling the strap 5 as being attached to the three targets as identified above is not inconsistent.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn in view of Zheng '954 (Zheng). Kohn discloses the claimed device with the exception of the triangular pair of legs. However, as disclosed by Zheng such are known in the target art. It would have been obvious to one of ordinary skill in the art to have used such to support Kohn's target as well to give it greater stability.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn in view of Pelton and Zheng for the reasons set forth in the previous action and the above claim 6 rejection.

Claims 17, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vand in view of Zheng. Zheng discloses the claimed device with the exception of the triangular pair of supports. However, as disclosed by Zheng such are known in the target art. It would have been obvious to one of ordinary skill in the art to have used such to support Vand's target as well to give it greater stability.

Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn in view of Vand and Zheng. Kohn discloses the claimed method with the exception of the pivotal connection and the triangular supports. However, with regard to the pivotal connection, as disclosed by Vand it is known in the art to provide such on such games for its stated purpose. It would have been obvious to one of ordinary skill in the art to have provided Kohn's device with this feature as well for the same purpose. Regarding the triangular supports, as disclosed by Zheng such are known in the target art. It would have been obvious to one of ordinary skill in the art to have used such to support Kohn's target as well to give it greater stability.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn in view of Yalvic and Zheng. Kohn discloses the claimed method with the exception of the use of straps and the triangular pair of supports.

With regard to the triangular supports however, as disclosed by Zheng such are known in the target art. It would have been obvious to one of ordinary skill in the art to have used such to support Kohn's target as well to give it greater stability.

Concerning the straps note the examiner's comments in the claim 20 rejection set forth in the previous action.

Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to claims 6-8 and 17-22 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 2/17/04 with regard to claims 1-5 and 9-16 have been fully considered but they are not persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

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Mark S. Graham
Primary Examiner